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★ **APR 05 2013** ★

LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PARIS HILTON & PARLUX FRAGRANCES,
LLC,

Plaintiffs,

– against –

INTERNATIONAL PERFUME PALACE, et al.,

Defendants.
-----X

ORDER
12-CV-5074 (JFB)(GRB)

JOSEPH F. BIANCO, District Judge:

On October 10, 2012, plaintiffs filed a complaint in this action. On October 11, 2012, plaintiffs served defendants with a copy of the complaint. Defendants have failed to answer or appear in this action. On November 16, 2012, plaintiffs moved for default judgment. On November 19, 2012, the Clerk of the Court noted the default of the defendants.

The Court held a telephone conference on January 8, 2013. Defendants failed to participate in the conference; the Court directed plaintiffs to file their motion for default judgment. Plaintiffs filed their motion for default judgment on January 29, 2013. By Order dated April 5, 2013, the Court granted plaintiffs' motion for default.

To obtain damages related to a default judgment, "a plaintiff must present admissible evidentiary proof of his alleged damages, unless the claimed amount is liquidated or susceptible to mathematical calculation." *In re Suprema Specialties, Inc.*, 330 B.R. 40, 54-55 (S.D.N.Y. 2005) (citing *SEC v. Mgmt. Dynamics*, 515 F.2d 801, 814 (2d Cir.1975) ("[U]nless the amount of damages are absolutely certain, the court is required to make an independent determination of the sum to be awarded."). Rule 55(b)(2) permits a court to conduct a hearing "as it deems necessary and proper" to calculate damages, "vesting considerable discretion in the court to establish the

procedures appropriate to the particular case.” *Id.* at 55. However, a hearing is not necessary “as long as [the court] ensure[s] that there [is] a basis for the damages specified in a default judgment.” *Fustok v. ContiCommodity Servs., Inc.*, 873 F.2d 38, 40 (2d Cir.1989).

IT IS HEREBY ORDERED that the Court refers this matter to Magistrate Judge Brown for a Report and Recommendation to address the issue of damages and other relief sought by plaintiffs.

IT IS FURTHER ORDERED that counsel for plaintiffs shall serve a copy of this Order on defendants and file an affidavit of service with the Court.

SO ORDERED.

JOSEPH F. BIANCO
UNITED STATES DISTRICT JUDGE

Dated: April 5, 2013
Central Islip, New York